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ABSTRACT

"Enrollment Information System" is used to denote a procedure by which student specific data, rather than aggregated tables, will be transmitted to the Maryland State Board of Higher Education (SBHE) on computer tapes. Tapes received by SBHE contain essentially one punched card per student, permitting staff to generate more efficiently required state and federal reports and greatly reduce the incidence of transcription errors. Questions have been raised regarding the impact of privacy laws on this system of data collection, uses to be made of these more detailed tapes, access to the data, responsibility for data editing, and procedures for the verification of data. This report addresses these concerns by providing both SBHE statements on policies and procedures and background material. (Author/LBH)

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STATE BOARD FOR HIGHER EDUCATION

ENROLLMENT INFORMATION SYSTEM

DESCRIPTION AND RELATED DOCUMENTS

(Subject to Board Approval)

Prepared by Stephen R. Hample

Division of Research, Planning and Evaluation

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16 Francis Street

Annapolis, Maryland

May 1977

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Abstract

"Enrollment Information System" is used to denote a procedure by which student specific data, rather than aggregated tables, will be transmitted to SBHE on computer tapes. Tapes received by SBHE will contain essentially one punched card per student, permitting staff to more efficiently generate required State and Federal reports while greatly reducing the incidence of transcription errors.

Questions have been raised regarding the impact of privacy laws on this system of data collection, uses to be made of these more detailed data, access to the data, responsibility for data editing and procedures for the verification of data. This document is intended to address these concerns by providing both SBHE statements on policies and procedures and background material.

Acknowledgment

Mr. B. Kerry Gustafson served as a consultant to this project and was responsible for all of the project's computer programming and for much of its overall design.

Initial drafts of the data format and computer programs were reviewed by a technical working group which also provided other excellent technical and practical advice. Appreciation is extended to the members of this group.

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SBHE Enrollment Information System

A Synopsis

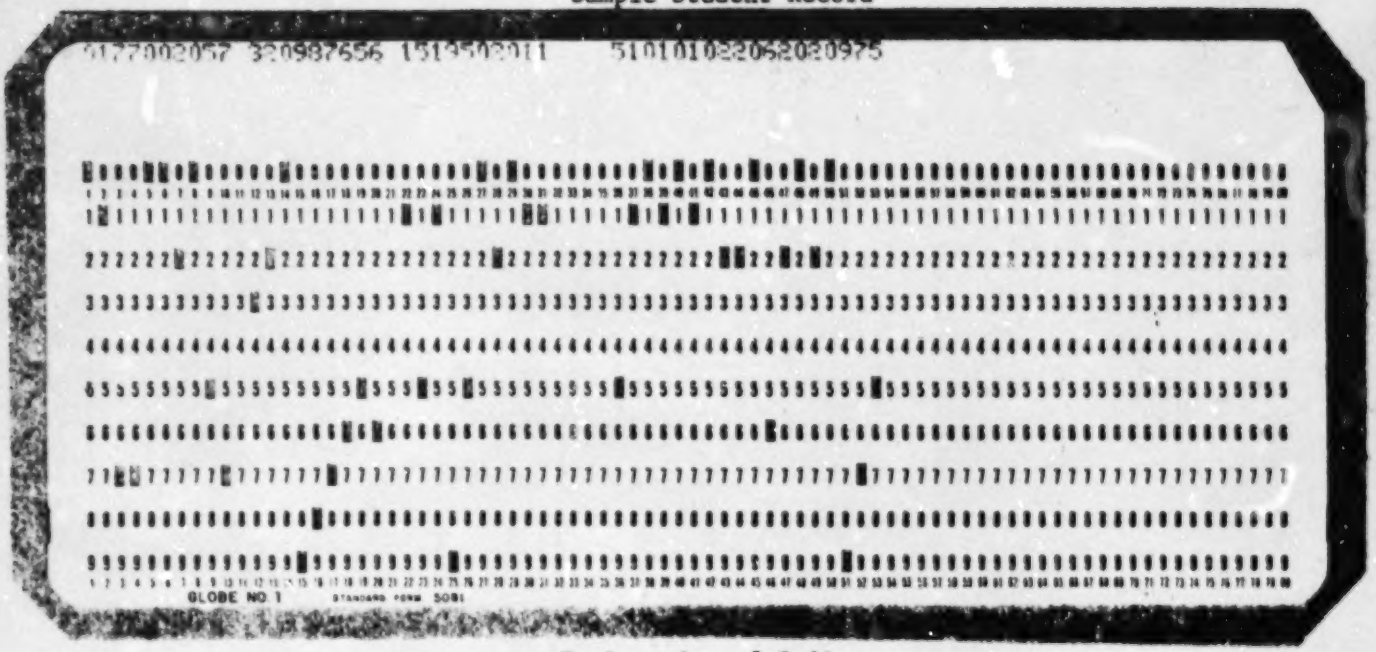
For the past several years, SBHE has coordinated the Federal Higher Education General Information Survey (HEGIS) for Maryland thereby avoiding reporting duplication between State and Federal data requests. Because a significant reduction in the amount of data collected is not feasible, primary attention has been focused on improving the efficiency with which data are collected and processed.

At most institutions, enrollment data is entered into computers. Printouts are then generated and data transcribed onto forms which are mailed to SBHE. The forms are then key punched and entered back into computer tapes. During the past two years, two institutions have submitted enrollment data on computer tapes thereby eliminating typographical and key punch errors and the not insignificant SBHE staff time required to locate and correct such errors. The Enrollment Information System is an extension to this process, eventually including all public institutions, enabling forms to be replaced by one tape submission and clerical effort to be reduced to a minimum. This tape (or punched card) reporting process is also an extension in the sense that it consists of a series of cards, one per student (as illustrated on the following page), thereby allowing various required reports to be generated from one set of data.

The SBHE staff will provide computer programs, to be used at each institution's option, to edit data for errors and to procure institutional reports. Through this option, institutions will be able to review the data before the tape leaves the campus.

The Enrollment Information System is thus designed primarily to reduce data errors and processing time with the secondary benefit of permitting studies of student progression and more sophisticated analyses of data. A more detailed description of the system can be obtained from SBHE.

Enrollment Information System
Sample Student Record



Explanation of Coding

01 = Fall Semester
77 = 1977
G02057 = Allegany Community College
320987656 = Student number derived from social security number 555-55-5555
1 = Male
5 = White
1950 = 1950 is year of birth
201 = Geographic origin in Allegany County
1 = Tuition status is "in county"
510101 = Major is data processing technology
02 = A. A. degree program
2 = Continuing student
06 = Enrolled for 6 credits
2 = Classified as a part-time student
02 = Sophomore
0975 = September 1975 was his original enrollment date at this institution

Current Forms Replaced by the New System

Form	Description	Cells per Page	Pages
S-1	Enrollment by Program and Race	136-272	About 40 (one per major)
S-2	Student Progression	204	2
S-4	Residence by County of Origin	510	8
S-8	Residence by State	366	1
S-9	Enrollment Distribution by Age	480	1

Student Related Forms Not Replaced by the New System

Form	Description	Cells per Page	Pages
S-3	Application, Acceptance and Admission	150	6
S-5	Financial Aid Received	240	5
S-6	Credit Hours of Enrollment	20	1
S-7	Opening Fall Enrollment	116	1
D	Degrees Awarded	(Computer Printout)	

Chronological Development of the State Board for Higher Education Enrollment Information System

July 1975	Specifications developed for initial tape submission of enrollment information. Description of this optional system distributed to all segmental and institutional HEGIS coordinators. Verbal presentation provided at the annual State HEGIS meeting.
October 1975	Two institutions begin using the optional tape submission procedure.
February 1976	SBHE staff discuss aspects of the tape submission procedure at a Student Data Record Workshop hosted by the State Board for Community Colleges.
August 1976	Specifications for tape submission of enrollment information again distributed (with some slight clarifications) to all segmental and institutional HEGIS coordinators. Verbal presentation provided at the annual State HEGIS meeting.
October 1976	Institutions using the new system in 197[illegible] continued to submit data on computer tape. Participation was expanded by allowing a small private institution to submit data on punched cards rather than tape.
December 21, 1976	SBHE Staff decided to remedy data processing problems by developing a new reporting system based on student specific data with mandatory participation at some point in the future.
January 1977	The January issue of the SBHE Record reported that a new data collection system would be proposed at the next Board meeting for implementation in the fall of 1978.
January 12, 1977	SBHE staff explained to the staff of the Board of Trustees of State Universities and Colleges (BTSUC) the expansion of the two year old tape submission procedure into the SBHE Enrollment Information System. It was stated that the procedure would be required by Fall 1978 and that if no technical difficulties exist, it would be expected that the BTSUC institutions would employ the new system in fall 1977.
January 13, 1977	At the request of Dr. Jean Spencer, Associate Executive Director of BTSUC, SBHE staff visited the Maryland State College Information Center at Towson to again explain the system and to explore any technical difficulties which might arise. No significant problems were found and no duplication of effort was expected because programming for the 1977 fall HEGIS cycle had not yet started. It appeared that implementation of the new SBHE system would yield a net reduction in the amount of effort required to produce the next series of data reports.
January 17, 1977	SBHE staff described the new system to Glenn Bushel, Assistant Attorney General, and discussed the applicability of privacy regulations and other laws to the new system. SBHE was subsequently informed that the new system would be permissible under Federal law and within the Board's powers and duties under State law.

Chronological Development of
Enrollment Information System

February 1, 1977	Preliminary draft of a complete technical description of the new Enrollment Information System published for distribution to all interested parties.
February 2, 1977	SBHE staff, at the invitation of persons in the State's community colleges, discussed the new system with a joint meeting of community college data processing and institutional research staffs.
February 4, 1977	Dr. Knorr presented to the Board a description of current data problems and the new tape submission procedure. The Board unanimously endorsed the new procedure.
February 22, 1977	Letter from Dr. Knorr to all segments requesting designation of a person with whom SBHE staff should work in implementing the system. A description of the system was enclosed.
February 23, 1977	Information sheet distributed to all segmental and institutional HEGIS coordinators listing HEGIS developments and the implementation of the new system. Notice was given that a complete description of the system was available and that suggestions were welcome.
March 2, 1977	SBHE staff discussed the new system at a meeting of the Maryland Independent College and University Association whose executive committee subsequently endorsed the new system.
March 4, 1977	SBHE staff attended a workshop on computer systems and privacy laws sponsored by the Association for Educational Data Processing.
March 8, 1977	SBHE staff were invited to the administrative data processing center at the University of Maryland at College Park to discuss technical details in the new system.
March 14, 1977	First meeting of persons invited to serve on a technical working group, formed to suggest ways of best implementing the new system.
March 16, 1977	SBHE staff met, as requested, with State College HEGIS coordinators to discuss changes in SBHE-HEGIS forms and procedures.
March 18, 1977	SBHE staff again met with community college institutional research persons to further discuss the new system.
March 31, 1977	Second meeting of the technical working group. Revisions made to proposed card image format. Consideration given to the development of SBHE supplied computer programs. Timetable for implementation set.

Chronological Development of
Enrollment Information System

April 1977	Privacy regulations reviewed in detail, alternative identifiers considered. Writing of computer programs begun.
April 18, 1977	SBHE staff visited Johns Hopkins University and Cecil Community College to discuss details for implementing the system.
April 29, 1977	SBHE staff attended a community college research meeting to answer questions on the new system and later visited Dundalk Community College to give a complete description of the system.
May 5, 1977	Third meeting of the working group. Final review of the reporting format, resolution of some concerns expressed regarding the system and review of a "skeleton" computer program developed for optional institutional/segmental use.
May 6, 1977	Proposed policy statement on privacy of student records required by Federal regulations presented to the Board for consideration.
May 9-18, 1977	Development of additional descriptions of procedures to meet institutional/segmental concerns.
June 1, 1977	Distribution of format specifications and initial edit programs (with rough documentation) to institutions.
July 1, 1977	Distribution of complete documentation on the initial set of programs and distribution of the second set (report generating).

SBHE Policy Concerning the Privacy of Student Records

Maintained by the Board

(Approved June 3, 1977)

The Board regularly collects, in accordance with its legal responsibilities, information on students enrolled in Maryland institutions of postsecondary education. This information is often collected on an aggregated or summary basis, but data on individuals may be collected from student records for the purpose of constructing aggregated or summary reports on given topics. With respect to these individual student records:

1. Any personally-identifiable information will consist only of items required for legitimate reports and studies of the Board; specific description of the data possessed by the Board will be provided upon request to the individual whose records the Board possesses. Inquiries should be addressed to the Director of Research, Planning and Evaluation at the Board's offices in Annapolis.

2. Any student may, upon application to the Director of Research, Planning and Evaluation, SBHE, 16 Francis Street Annapolis, Maryland 21401, inspect, review or seek correction of any records of that student maintained by the Board. The Board will provide copies of such records for a fee equal to the actual reproduction or computer processing costs.

3. The Board will maintain a record of disclosures of personally-identifiable information made from the education records of a student, and will permit a student to inspect that record.

4. If after an application to correct records is made, and a hearing held thereon, the Board decides that the information contained in its records is not inaccurate, misleading, or otherwise in violation of a student's rights, the Board will inform the student of the right to place in the student's education records a statement commenting upon the information contained in the records, or setting forth any reasons for disagreement with the Board's decision.

5. Copies of this policy will be published annually and will be provided upon request to interested individuals, in accordance with (HEW) Regulation 45 C. F. R. 99.6.

Note: The above policy was developed in consultation with the Attorney General's Office to fulfill requirements of U. S. Title 45, Part 99: "Privacy Rights of Parents and Students." This policy is based upon current regulations and may be changed to meet future legal requirements.

SRH: pjq

State Board for Higher Education
Policies Relating to Data Collected Through the Enrollment Information System

General

"Enrollment Information System" is used to denote a process developed to speed the collection, processing and utilization of enrollment data through the collection from institutions of individual (rather than aggregated) student data in computer tape form. The procedure will involve extracting the set of data required for State and Federal reporting requirements from institutional student records and transmitting this data to SBHE on computer tape. This new system or procedure will replace several forms currently used for reporting data to SBHE. As such, the pri purpose of this system is to increase the efficiency and promptness of existing SBHE data collecting activities using the same definitions, and serving the same purposes as the existing paper forms that will be replaced by the new system. This statement is not meant to preclude the periodic review and necessary revisions in data uses and definitions but to draw the distinction between that refinement process and this transfer from one reporting mechanism to another.

While the new data collection process is primarily a replacement of current reporting procedures, it will also provide secondary benefits by permitting tabulations of data that are not possible with the aggregated data currently collected. The following policies have been prepared in view of these potential additional uses and in view of the individual rather than aggregated nature of the data collected.

Privacy

Individual student records will not be identified by name, address or social security number (derived identifying numbers will be used) and only basic demographic and registration information will be contained in each record. As such, the data collected is not considered "personally identifiable" in terms of the "Buckley Amendment" regulations. However,

the Board will treat the data as if it were "personally identifiable" and will protect the privacy of these records in accordance with legal requirements and other established policies.

Access

The use of educational data collected by SBHE will continue to be the responsibility of the Board. Accordingly, access to the individual data elements will be limited to the Board's staff while aggregated data will continue to be public information.

Research

Data gathered under the new system will continue to serve the primary purpose of compiling required aggregated reports. The new system may indirectly support future research studies by serving as a basis for drawing stratified samples and by freeing SBHE staff from routine data processing activities. For major new research studies, involving follow-up questionnaires of selected samples of students or similar efforts, it is anticipated that SBHE staff will seek advice and expertise from a standing Research Advisory Committee. It is intended that this committee (described in the following pages) consist of segmental/institutional representatives with the purpose of benefiting both SBHE as a source of research ideas and assistance and benefiting segments and institutions by providing them with a means for advising SBHE on the design of studies and the analysis of data.

Responsibility for Accuracy

Institutions will have responsibility for the accuracy of their data. Computer edit programs will be supplied by SBHE for optional use at the segmental and institutional levels. Because the new system will eliminate sources of typographical and keypunch errors and because of the responsibility for accuracy assigned to the institutions, required data will be transmitted

in aggregate form to the Federal government without further SBHE editing. In those instances where errors still appear, SBHE staff will obtain, through the appropriate board staff, necessary revisions before altering Federal reports.

Institutional Verification of Student Data in Federal Reports

The new system, in conjunction with the preceding policy, will permit segmental and institutional staff to review Federal enrollment reports for their own institutions prior to SBHE submission of the data to the Federal government. Further, institutions, through the use of SBHE supplied computer programs, will be able to review these reports before the tapes leave the campus and thereby verify the Federally reported data. To ensure that no transmission errors have occurred, institutions may request that specific totals be checked back against the institutional copies and that an SBHE printed copy be mailed to the institutions.

Disposal of Outdated Records

For purposes of longitudinal studies, student specific data will be maintained for a period not to exceed ten years. At the conclusion of this period, the data will be destroyed.

SBHE Research Advisory Committee

Purpose

The purpose of this standing committee is to provide advice to the SBHE staff on issues related to data collection and on the design and conduct of SBHE research studies. The committee is intended to benefit SBHE as a source of counsel and assistance and to benefit segments and institutions by providing them with a means to ensure that SBHE is aware of their concerns regarding the design of studies and the collection and analysis of data.

Research Studies:

It is intended that this committee be primarily concerned with special, in-depth studies of specific topics and secondly, with routine SBHE collection and tabulations of data. Examples of appropriate research studies might include a statewide student follow-up study, an analysis of the "tenuring-in" of faculty members or a study of enrollment rates in higher education.

Membership:

The committee consists of five segmental members (one from SBHE and one from the independent and each of the three public segments). Four additional members, possessing specialized knowledge on current research topics, will be invited by SBHE staff to serve one year terms, thereby providing specialized expertise and broadening participation in the research process. Through this structure the committee will have a stable core of members, thus satisfying the need for continuity and for knowledge of general data limitations, while also having a changing membership of persons possessing specialized knowledge relevant to current studies. The committee is also designed to provide wide representation while remaining at a workable size.

Persons serving on the committee should be both technically competent and aware of policy issues which may impede the success of the research process.

SBHE Research Advisory Committee

Meetings:

The committee will meet quarterly with special meetings held when necessary.

The use of Social Security Numbers as Student Identifiers by the State Board for Higher Education Consideration of Privacy Laws and Alternative Identifiers

INTRODUCTION

The use of social security numbers as personal identifiers for non-social security purposes has, until recent years, been an accepted practice. Following the passage of the Social Security Act in 1935, the first mention, in law or regulation, of an account number occurred on November 5, 1936. Only two months later, on January 15, 1937, the Social Security Board itself recommended the use of the number for other purposes (Records, Computers and the Rights of Citizens, 1973:115). By 1974, concern over the uses of this numbering system and with privacy issues in general led to the Privacy Act of 1974 and to the Family Educational Rights and Privacy Act of 1974 (known as the "Buckley Amendment"). This paper will address these and other laws relating to the use of social security numbers to identify students in higher education and will examine alternative identification systems.

The Need for a Personal Identifier

The need exists for some type of personal identifier, whether it be the name of the student, the student's social security number or some other label. At the campus level, academic and administrative records need to be accurately identified with the appropriate individual student. At the segment or state level, some method of identification is needed if students are to be followed as they transfer among institutions or if progression studies are to include consideration of transfer students. Other state level uses include serving as an identifier in sampling methods and permitting special studies concerning particular types of students.

The Selection of an Appropriate Identifier

Individuals in Sweden are assigned, at birth, a life-long number which is used as identification on all official records. This system has several

advantages from the standpoint of data management and processing: each person's number is unique, permanent (not changing because of marriage), ubiquitous (all individuals possess a number), and readily verifiable.

In the United States, the social security number most closely approximates this type of a standard universal identifier and has been adopted for use by nearly all higher education institutions. The use of other, locally generated, codes or the simple use of names and addresses has apparently been abandoned because of 1) the frequency of name changes in the student population, 2) the frequency of address changes and 3) the tendency of students to forget locally assigned "account" numbers. Social security numbers remain the most convenient student identifier and recent laws and regulations have therefore generated considerable concern in the higher education community.

PRIVACY LAW

Much of the current federal privacy law affecting higher education is still in a formative stage. Revisions or clarifications to Federal regulations (some of which have been instituted on a trial basis) are being issued every few months and few court rulings exist from which legal clarifications may be drawn. The following descriptions of the law are therefore subject to relatively sudden and substantive change.

The Federal Privacy Act of 1974 (P.L. 93-579, 5USC 552a)

The purpose of this act is to provide certain safeguards for an individual against an invasion of personal privacy by requiring Federal agencies to follow certain procedures in the collection, maintenance, use and dissemination of personal information. In particular, this law states that:

> "It shall be unlawful for any Federal, State or local government agency to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his social security account number." (Sec. 7.(a) (1)).

The above provision does not apply to disclosures required by Federal statute nor to a continuation of a disclosure procedure required by statute or regulation prior to January 1, 1975. Any agency which requests an individual to disclose his social security number must indicate whether the disclosure is mandatory or voluntary and what uses will be made of it (Sec. 7.(b)). Thus, this portion of the Act governs the disclosure by an individual of his social security number to a second party, but does not generally prohibit disclosure by the second party to a third party. The greater portion of this Act applies only to Federal agencies or contractors placing restrictions on Federal disclosures to third parties and causing these Federal agencies to be liable for damages resulting from violation of this Act (Sec. 2.(b) (6)). More recent legislation, the Tax Reform Act of 1976, appears to modify certain of these restrictions and will be discussed below.

Court decisions addressing the conflict between these restrictions of disclosure and certain provisions of the Freedom of Information Act are reviewed in Rosenfeld, 1976 and Committee on Government Operation, 1976.

The Family Educational Rights and Privacy Act of 1974 (P.L. 93-568, 20 USC 1232g)

Commonly referred to as the "Buckley Amendment", this act has been the source of considerable controversy possibly because of the nature of its origin as reported by Carter, et.al. (1976:469):

> This Act, otherwise known as the "Buckley Amendment" or simply FERPA, has been the source of considerable controversy in the translation of rather general provisions into specific and reasonable regulations. The Family Educational Rights and Privacy Act of 1974 was law before its significance was realized. This act was an amendment to the Omnibus Education Bill and with little-if any-discussion was adopted by voice vote and approved in the House without debate. To the dismay of many it was never discussed in formal hearings "to explore potential problems of, or reactions to, the subject matter," and the sponsor of the bill seems not to have been adequately prepared to respond to some of the controversial issues raised. The focus of the amendment was so misunderstood that individuals in higher education did not analyze its effect until the bill had become law. Although earlier court decisions and legislation addressed some of the issues associated with student records, it was not

until the passage of the Buckley Amendment that legislation was so comprehensive.

This Act was described in a NACUBO Special Report as follows:

The purpose of the law is to provide greater privacy safeguards to parents and students through the application of fair information practice. As a result of these HEW regulations, institutional policies and procedures must be formulated and implemented by all colleges and universities which receive federal funding under any programs for which the U.S. Commissioner of Education has administrative responsibility. Specific requirements are included that deal with the following areas: formulating institutional policies and procedures; notifying parents and students of their rights on an annual basis; requesting waivers of rights from parents and students; inspecting and reviewing education records; limiting the right to inspect and review education records; limiting the destruction of records; amending education records; assuring the right to, and conducting, a hearing; obtaining consent for the disclosure of information; maintaining records of disclosures; limiting redisclosures; ascertaining to whom disclosures may be made without consent; disclosing information to officials of other schools, and during emergencies; disclosing "directory information"; and enforcing the requirements.

The "Buckley Amendment" or FERPA deals with "personally identifiable information" and is hence much broader in scope than regulations relating only to the use of social security numbers. Another distinctive feature of this act is that it addresses the disclosure of personally identifiable information to third parties. In general, educational institutions are prohibited from releasing personally identifiable information to any third party unless specific written authorization is voluntarily obtained from each student or unless disclosure policies are publicized and distributed according to certain provisions. The following are some of the exceptions to this general rule. Prior consent for disclosure is not required if the disclosure is:

1) To officials of another school or school system in which the student seeks to enroll;

2) To federal or state education authorities for the purpose of evaluating federal programs or in connection with the enforcement of or compliance with Federal legal requirements which relate to these programs;

3) To state and local officials to whom information is required to be reported pursuant to State statute adopted prior to November 19, 1974;

4) To organizations (including state and local agencies) conducting studies for; or on behalf of, educational institutions for the purpose of employing predictive tests, administering student aid and improving instruction;

5) To accrediting organizations for accreditation purposes.

Agencies and organizations receiving such information are prohibited from redisclosing the information to any other party without the prior written consent of the student. Institutions and agencies are required to adopt and publicize a formal policy on the maintenance, disclosure and methods of correction of personally identifiable information. Specific exceptions, notification procedures and record keeping requirements are too numerous to be covered in this paper. The reader is referred to the NACUBO Special Report 76-4 and the Federal Register for a full explanation of this law.

The Buckley Amendment, unlike the Federal Privacy Act, provides enforcement measures which may affect educational institutions; however, these measures are more limited than is generally supposed.

No private cause of action against an educational institution is available to a complainant under the act, and the maximum weapon of enforcement is the termination of federal funding "under any applicable program" after an investigation by HEW. (Aiken, 1976:177).

The Tax Reform Act of 1976 (P.L. 94-455)

A provision (Sec. 1211.(b)) in this Act amended the Social Security Act to provide for required disclosure of social security numbers to the Internal Revenue Service and further added:

It is the policy of the United States that any State (or political subdivision thereof) may, in the administration of any tax, general public assistance, driver's license, or motor vehicle registration law within its jurisdiction,

utilize the social security account numbers issued by the Secretary for the purpose of establishing the identification of individuals affected by such law, and may require any individual who is or appears to be so affected to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for the law involved, the social security account number (or numbers, if he has more than one such number) issued to him by the Secretary.

The Tax Reform Act, enacted after the Federal Privacy Act and the Buckley Amendment, contains a further provision which would appear to modify portions of those earlier acts.

If and to the extent that any provision of Federal law heretofore enacted is inconsistent with the policy set forth in clause (above) of this paragraph, such provision shall, on and after the date of the enactment of this subparagraph, be null, void, and of no effect.

Thus, the Tax Reform Act of 1976, in effect repeals portions of earlier acts which prohibited compulsory use of social security numbers. While the provisions of higher education opportunity might not be considered a program of "general public assistance," this law at least indicates that the Federal government now permits the use of social security numbers for several State purposes.

State Law (Annotated Code of Maryland - Art. 77A)

The State Board for Higher Education is empowered to collect data on enrollment and other education-related topics. Section 32(D) states:

The Board may secure, compile, and evaluate data, statistics, and information on any matter within its jurisdiction from persons, agencies, and institutions subject to its authority on forms prescribed by it. It may, through its designated representatives, visit at any reasonable times, and conduct reasonable inspections of any institution subject to its jurisdiction.

Anticipated Developments

The Federal Privacy Act of 1974 established the Privacy Protection Study Commission to study the automated data processing programs and information systems of governmental, regional and private organizations and to make recommendations for legislative, administrative or voluntary action, as it may determine, to protect the privacy of individuals while meeting legitimate needs for information. The commission will issue its

final recommendations by July 10, 1977. Additional restrictions on the disclosure of information will probably be recommended as will be the extension of existing regulations to the private sector. It is likely that comprehensive legislation will be introduced to implement these recommendations but it will meet strong opposition if complex and costly regulations are to be imposed on private corporations. Some additional legislation will probably be enacted; its content is impossible to predict at this time.

Additional privacy laws currently proposed at the Federal level include H.B. 1984 and H.B. 1985. For a discussion of these bills, see The Privacy Issue and Computer Data Security, or Goldwater (1977).

ALTERNATIVE PERSONAL IDENTIFIERS

Identification systems not using social security numbers are usually based on arbitrarily assigned numbers; combinations of last names, birthdates and other characteristics; or identification numbers coded upon such characteristics. Each of these variations sacrifices one or more of the following criteria for an ideally effective and efficient personal identifier:

Uniqueness. It must be unique for each person. No more than one person can be assigned the same identifier, and each person must have no more than one identifier.

Permanence. It must not change during the life of an individual and should not be reused after his death until all records concerning him have been retired.

Ubiquity. Labels must be issued to the entire population for which unique identification is required.

Availability. It must be readily obtainable or verifiable by anyone who needs it, and quickly and conveniently regainable in case it is lost or forgotten.

Indispensability. It must be supported by incentives or penalties so that each person will remember his identifier and report it correctly; otherwise systems will become clogged with errors.

Arbitrariness. It must not contain any information. If it does, e.g., State of issuance, it will be longer than necessary, thus violating the "brevity" criterion (see below). It may also violate the "permanence" criterion if changeable items, such as name or address, are incorporated. Most important, if items of personal information are part of an identifier they will be automatically disseminated whenever the identifier is used.

Brevity. It must be as short as possible for efficiency in recognition, retrieval, and processing by man or machine.

Reliability. It must be constructed with a feature that detects errors of transcription or communication.

- (Records, Computers, and the Rights of Citizens, 1973:109-110)

Arbitrarily Assigned Numbers

In terms of state higher education reporting, a student numbering system would require that each individual enrolled be assigned a unique number for record keeping purposes. Bank accounts credit cards and other business transactions are common examples of similar systems. The social security number itself is an example because only the first three digits (designating geographical region) carry any special meaning. Each of these examples requires the assignment and control of the number at the highest organizational level and is subject to reporting errors. To guard against these errors, account numbers are usually matched against the individual's name or address, before any transaction is processed. Additionally, identification cards are issued to reduce the incidence of reporting errors.

If this approach were to be employed in Maryland higher education, the State Board for Higher Education would have to maintain strict control of the numbering system. If numbers were assigned by each institution several

of the above criteria would be violated: 1) uniqueness could initially be satisfied by affixing an institutional prefix, but non-uniqueness would result from student transfers unless each student's original number was also transferred to the new institution, 2) permanence of the number would be similarly affected, 3) availability of the number at registration time would have to be assured, particularly in the case of transfer students, 4) indispensability would appear to be missing unless the SBHE assigned numbers were incorporated into local record keeping systems. The other criteria would be met by the use of arbitrarily assigned numbers.

Soundex Systems

A soundex system is a method often used to convert alphabetical names into alpha-numeric codes for more efficient processing with reduced error. A simple example of this system would be to take a name (Patterson), delete the vowels and repeated consonants (PTRSN), retain one or more leading letters and convert the remaining letters to numerals, perhaps corresponding to those on a telephone dial or on a more sophisticated list, (P8776). Such a method is used to assign driver's licenses in Maryland and other states.

The soundex approach would appear to violate the criterion of arbitrariness (as well as others) and would be susceptible to changes in the individual's name or other variables used. The use of an SBHE generated soundex system would therefore appear less desirable than the use of arbitrary numbers. The use of driver's license numbers already assigned would appear to cause as many concerns for privacy as would the use of social security numbers and would be further complicated by the registration of students from other states employing a variety of license numbering systems.

Non-Unique Personal Identifiers

This approach seeks to avoid the use of an identifying number by

retrieving information on the basis of combinations of personal characteristics. Certain airlines use such a system based on each passenger's name and flight number. This simple system suffices for such short term situations involving only a few hundred persons per plane. Medical record systems employing this technique must be much more complex because of the large number of records, the length of time such records are kept and the serious consequences of mismatching patient records with medical treatment. To be effectively employed in a system with a large number of records a comparatively lengthy list of descriptors such as name, birthdate, sex, race, bloodtype, etc. must be maintained. Computerized matching methods of varying sophistication are then used to identify individuals through an exact or a near match to an already existing personal profile. These systems can be rather complex and expensive to maintain, particulary when the population on which records are being kept is constantly changing and background descriptors must constantly be gathered. The amount of description required is also likely to be much more revealing and personally identifiable than an individual's social security number or other single identifier.

Truncated Social Security Numbers

The truncation of social security numbers to include only the last six digits would generate most of the benefits and disadvantages of the use of complete social security numbers. One might argue that, in a strict sense, complete social security numbers would not be released, thus rendering the information non-personally identifiable and thus exempt from privacy regulations. However, most privacy law relevant to higher education is not concerned with the social security number, per se, and the geographic origins of the missing first three digits might cause such truncated numbers to be considered nearly as identifiable as full social security numbers. A large proportion of non-local students attending an institution would result in a decrease in the identifiability of records, but would

also result in an increase in the probability of duplicate numbers being reported.

Derived Student Numbers

A student identification number derived from a social security number would meet virtually all of the desired criteria for an identifier while increasing the privacy of records provided that certain procedures are followed. The criteria of uniqueness and permanence require that the derivation be made according to one standard method at all institutions. An example of such a method would be the algorithm $y = 10^9-(x + 123,456,789)$ where a new identifying number, y, is obtained from the original social security number, x. Non-standard methods would violate the permanence criterion by assigning a new number to students upon transfer and the uniqueness criterion by allowing the possible assignment of duplicate numbers. The use of a standard coding method, however, would meet the needs of SBHE while preventing unauthorized persons who accidently gain access to the records from identifying individuals by social security number.

SUMMARY

The use of social security numbers per se is of little legal significance in the transmission of data from institutions to the State Board for Higher Education. If "any ... general public assistance" as stated in the Tax Reform Act is broadly interpreted to include higher education, then, no applicable specific statute prohibits the use of social security numbers, per se, by institutions or by SBHE. If higher education is not considered within "general public assistance", then some restrictions exist in the Federal Privacy Act on the initial collection of social security numbers, but not on their subsequent release to other agencies.

In the broader context of "personally identifiable" data, certain provisions of the "Buckley Amendment" are relevant. Institutions may,

under the exception contained in Federal law, and are required, under State law, to provide such data to SBHE for its use in research studies, required federal reports and other uses. The interpretation of the applicability of the exceptions permitting the transfer of data from institutions to SBHE is supported by a letter from the Attorney General's Office dated March 21, 1977. The transfer of such data carries with it to the State Board the responsibility for protecting the privacy of the data in accordance with the "Buckley Amendment". The institutions, acting in a legal manner, would therefore be in no danger of liability in this regard with the penalties for violations of the "Buckley Amendment" then being applicable to the State Board in the event of unauthorized disclosure or other abuse at the State level.

CONCLUSIONS

The use of derived student numbers, and student specific data formats in general, as an aid for the efficient and effective transmission of data to the State Board for Higher Education constitutes a legal activity of the Board and of the institutions. Concern expressed for SBHE and institutional liability should therefore be relieved; further assurance may be taken from the fact that no private cause of action against an educational institution is available to a complainant under the "Buckley Amendment".

Derived student numbers appear to be an acceptable identifier for SBHE use while still protecting the privacy of individual data from unauthorized use.

SOURCES CONSULTED

Aiken, Ray J. et. al. (1976) Liability: Legal Liabilities in Higher Education: Their Scope and Management Association of American Colleges, Washington, D.C.

Allman, Katherine A., (1975) "Legal Issues Related to the Privacy of Personal Information", National Center for Higher Education Management Systems, Boulder, Colorado.

Carter, David G. et. al. (1976) "Privacy in Education: Legal Implications for Educational Researchers", Journal of Law and Education, Vol. 5 No. 4, October 1976.

Computer Science and Technology: Accessing Individual Records from Personal Data Files using Non-unique Identifiers (February 1977) National Bureau of Standards Special Publication 500-2, U.S. Department of Commerce, Washington, D.C.

Federal Register Vol. 41 No. 118, June 17, 1976, Washington, D.C.

Federal Register Vol. 42 No. 16, p. 4460, January 25, 1977 Washington, D.C.

Goldwater, Barry M., Jr. et. al. "Records Management General", Records Management Quarterly Vol. 11 No. 1, January, 1977.

Legislative History of the Privacy Act of 1974 (September 1976) Committee on Government Operations, United States Senate and the Committee on Government Operations, House of Representatives, Washington, D.C.

The Privacy Issue and Computer Data Security (March 1977), Sutherland, Asbill & Brennan, Attorneys, Washington, D.C.

NACUBO Special Report 76-4 (1976), National Association of College and University Business Officers, Washington, D.C.

Records, Computers and the Rights of Citizens (1973), Report of the Secretary's Advisory Committee on Automated Personal Data Systems, U.S. Department of Health Education and Welfare. U.S.G.P.O. Stock No. 1700-0016 Washington, D.C.

Rosenfeld, Frank A. (1976) "The Freedom of Information Act's Privacy Exemption and the Privacy Act of 1974", Harvard Civil Rights: Civil Liberties Law Review, Vol. 11 No. 3, Summer 1976.

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January 26, 1977

Dr. Sheldon H. Knorr
Executive Director
State Board for Higher Education
93 Main Street
Annapolis, Maryland 21401

Dear Sheldon:

On January 17 I met with Steve Hample and John Sabatini to discuss the impact of the Buckley Amendment--Family Educational Rights and Privacy Act of 1974--on the collection of student data by the State Board for Higher Education. At that time I advised that, in my view, the Board's contemplated data collection does not run afoul of the Act or federal regulations.

The regulations permit institutions to disclose personally identifiable information to the Board "for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction." See 45 C.F.R. §99.31(a)(6). From what Steve and John told me, the data in question is to be collected with an eye toward improving instruction in institutions of higher education. With respect to data which must be amassed for the purpose of preparing reports to federal agencies, the regulations clearly permit the Board to obtain what it needs for this purpose. See 45 C.F.R. §99.35.

If you have any specific questions on this, please do not hesitate to contact me.

Very truly yours,

Glenn E. Bushel
Assistant Attorney General

GEB:aba

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RECEIVED
JUN 10 1977
STATE BOARD
FOR COMMUNITY COLLEGES

June 9, 1977

Dr. Brent M. Johnson
Executive Director
Maryland State Board for Community Colleges
The Jeffrey Building
16 Francis Street
Annapolis, Maryland 21401

Dear Dr. Johnson:

In your recent letter you note that, in accordance with the Buckley amendment, the State Board for Higher Education (Board) intends to collect personally identifiable information from Maryland's community colleges on students attending those institutions. You have asked whether a community college could be held liable in the event that the Board improperly discloses such information. It is our opinion that absent some negligence on the part of a community college in providing the Board with data, a college would not be subject to any liability for the actions of the Board.

The Buckley Amendment to the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. §1232g, generally proscribes the disclosure of personally identifiable student information by educational agencies and institutions without the consent of the student or his parent. Failure of an educational agency or institution to comply with the statute results in the loss of federal funding. While nothing in the law provides for a private cause of action for its violation, for purposes of your inquiry we will assume arguendo that such an action theoretically lies.

There are many exceptions to the general prohibitions established by the statute. Subsection (c) of §1232g directed the Secretary of Health, Education, and Welfare to adopt appropriate regulations to enforce the Buckley Amendment, and these have been promulgated as 45 C.F.R. §§99.1 et seq. Of importance here is 45 C.F.R. §99.31(a)(3)(iv) which provides that educational agencies or institutions may disclose personally identifiable information, without obtaining prior consent, to State educational authorities.1/ Such disclosure may also be made, by virtue of 45 C.F.R. §99.31(a)(6), to "organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction."2/ "Organizations" within the contemplation of this regulation include State and local agencies.

So long as the Board collects data from the community colleges in accordance with the terms of these regulations there cannot be any violation of the Buckley Amendment. If the Board breaches any of the responsibilities imposed upon it by the statute, a community college cannot be liable if its transmission of data to the Board was proper in the first instance. It appears to us that a community college would only be remiss under the Buckley Amendment if it were negligent in the actual supplying of information to the Board for an improper purpose, or under circumstances where the college should reasonably have known that the Board would not or could not comport with the law.

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1. Disclosure under this provision must be accomplished in accordance with 45 C.F.R. §95.35, which allows State officials to audit and evaluate federally supported programs. The data collected must also be protected in a manner which will not permit personal identification by others, and personally identifiable information must be destroyed when no longer needed for federal purposes.

2. These studies must be conducted so as not to permit the personal identification of students, and the information collected must be destroyed when no longer needed for purposes of the study.

Officials of the State Board for Higher Education are acutely aware of, and sensitive to, the dictates of the Buckley Amendment, so we doubt that the theoretical situation which underlies your inquiry will ever occur. For unless something appears amiss, a community college can rely upon assurances from the Board that data collection and its protection will be handled in accordance with law. In the event that a close case develops, this Office is, of course, available to render advice to the Board on any action which it contemplates taking in this area.

Very truly yours,

Glenn E. Bushel
Assistant Attorney General

GEB:aba
cc: Dr. Sheldon H. Knorr
Dr. Monte P. Shepler